IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.6716 of 2007 &
CRIMINAL REVISION NO.191 OF 2007

DATE OF DECISION: JULY 03, 2007

K.K.Bhandari

.....Petitioner

VERSUS

Dr.Krishan Gopal Bhatia and others.

....Respondents

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

1. **Whether Reporters of local papers may be allowed to see the judgement?**
2. **To be referred to the Reporters or not?**
3. **Whether the judgment should be reported in the Digest?**

PRESENT: Mr. R. S. Rai, Sr.Advocate with
Mr. Karan Pathak, Advocate,
for the petitioner.

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RANJIT SINGH, J.

K.K.Bhandari has filed this revision in a State case, impugning the order passed by Judicial Magistrate Ist Class, Ferozepur, acquitting the respondents of the charge under Section 380 read with Section 34 IPC. Respondents, husband and wife, are statedly tenants in Bungalow No.54, Fort Road, Ferozepur Cantt. under the petitioner and were accused of unauthorisedly cutting sheesham trees belonging to Government of India, Ministry of Defence, standing in the said bungalow. The evidence led by the prosecution shows that some branches were found lying in the premises of bungalow, though the cut trees were allegedly removed and not found lying or seen by any one. The case set up by the prosecution is that trees, which were

existing in the bungalow, were the property of the Cantonment Board and were cut/removed without the consent of the Board, the owner of the said trees and hence, this would amount to an offence of theft. The respondents have denied all the allegations made against them and have pleaded innocence.

In order to seek support for its case, the prosecution produced Satish Kumar, J.E. and other witnesses like Pran Nath, Sanitary Inspector, Vijay Kumar Soni, Superintendent and Jawahar Lal, Mali. Surinder Mohan Lal, examined as PW1, did not support the case of prosecution, though it was alleged that he had made the report on 15.5.1995. He was accordingly declared hostile. Apart from pleading innocence, the respondents had also produced on record documentary evidence, indicating that they were tenants under one Sh.K.K.Bhandari, who had filed an application before a Rent Controller for eviction of the petitioners from the bungalow, which was dismissed. The appeal preferred against the said order was also dismissed. It was further pleaded that there was delay in lodging the FIR and the date of offence was vaguely mentioned as 24.5.1995 instead of giving any exact date or time of commission of offence. The trial Court, after appreciation of evidence, found that prosecution failed to prove that any tree was in the ownership of the Cantonment Board. No evidence could be produced by the prosecution to show commission of any theft by the respondents. Even no evidence was led to show that any tree was noted to be in possession of the respondents at the time of giving them tenancy. The prosecution sought conviction of the respondents only on the basis that some branches of trees found lying in the premises of the bungalow. There

was no direct evidence indicating if the respondents were in any manner responsible for cutting the trees. Having regard to the nature of the evidence led by the prosecution, the respondents were acquitted. No evidence could be pointed out before me, which could indicate or show involvement of the respondents in the offence of commission of theft. The vague evidence, as referred to above, would not be sufficient to base a conviction of the respondents. I do not find any infirmity in the findings recorded by the trial Court, which may call for any interference in revision, which is even otherwise filed with a delay of 283 days. Otherwise also, there is no reasonable ground raised in the application for condonation of delay.

The revision is accordingly dismissed on the ground of delay as well as on merits.

July 03,2007 **(RANJIT SINGH)**
khurmi **JUDGE**